



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,768	01/02/2001	Scott D. Redmond	PA4181US	2019
22830	7590	07/16/2008		
CARR & FERRELL LLP 2200 GENG ROAD PALO ALTO, CA 94303			EXAMINER SHELEHEDA, JAMES R	
			ART UNIT	PAPER NUMBER
			2623	
			MAIL DATE	DELIVERY MODE
			07/16/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/753,768

**Applicant(s)**

REDMOND, SCOTT D.

**Examiner**

JAMES SHELEHEDA

**Art Unit**

2623

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-39 and 41-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-39 and 41-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/C2)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/16/08 has been entered.

### ***Response to Arguments***

2. Applicant's arguments filed 06/16/08 have been fully considered but they are not persuasive.

a. On pages 12-13, applicant argues that the specification supports the capability to wirelessly send and receive video content.

In response, the cited portion of the specification discloses wherein a user's wireless device may receive video content from a video server (page 9, lines 18-21) which may be the Internet (page 5, lines 14-21).

Further, the cited portion of the provisional specification discloses sending and receiving video over the Internet (page1, lines 18-20).

There is no disclosure of sending or receiving video content from other portable wireless devices. The wireless device is disclosed as also forming a

local area network with compatible devices within range (page 4, lines 23-27).

This does not support any sort of disclosure of transmitting/receiving video content, as the video content is only disclosed as being transmitted/received over the Internet and with a video server. Therefore, applicant's arguments are not convincing.

b. In response to applicant's arguments on page 14, in regards to claims 35-36, see (a) above regarding receiving video content from wireless devices.

c. In response to applicant's arguments on page 14, in regards to claim 37, see (a) above regarding receiving video content from wireless devices. While the device may receive audio/video through a subscribed wireless information service (page 4, lines 18-23 and page 5, lines 14-28) and *additionally* may form a local area network with compatible devices within range (page 4, lines 23-27), there is no support for receiving audio/video content from a remote wireless device or wherein the remote wireless device is a first device connected to the content server. Further, there is no specific support for the "remote wireless device" to receive audio/video selections from a second remote wireless device as recited in the claim. Therefore, applicant's arguments are not convincing.

d. In response to applicant's arguments on pages 16-17, in regards to claim 45, the cited portion of the specification discloses wherein a user's wireless

device may receive video content from a video server (page 9, lines 18-21) which may be the *Internet* (page 5, lines 14-21).

Further, the cited portion of the provisional specification discloses sending and receiving video over the *Internet* (page1, lines 18-20).

There is no disclosure of sending video content to other portable wireless devices. The wireless device is disclosed as **also** forming a local area network with compatible devices within range (page 4, lines 23-27). This does not support any sort of disclosure of transmitting video content, as the video content is only disclosed as being transmitted over the Internet to a home office. Therefore, applicant's arguments are not convincing.

e. On page 18, of applicant's response, applicant argues that Whiteside fails to disclose a "proximity sensor" that is capable of detecting other devices.

In response, it is noted that Whiteside specifically discloses wherein the billboard may continuously broadcast a vendor phone number and other information or wherein a user may first query the billboard to receive the information (column 2, lines 9-26).

As the billboard is continuously broadcasting it's data, the phone receiver will detect that the signal when it is within range (column 2, lines 1-20). Thus, the system of Whiteside clearly discloses a "proximity sensor" that is capable of detecting other devices, as the system detects a billboard within range which is

broadcasting a wireless signal. Therefore, applicant's arguments are not convincing.

Applicant further argues that in Whiteside, the user performs the "scanning and detecting" process. In response it is unclear as to how applicant finds this possible, as it is the cell phone which must establish communications wireless communications with the billboard (column 1, lines 41-48 and column 1, line 67-column 2, line 4). The cell phone must scan and detect any wireless signals being communicated to establish communication with the transmitting billboard (see Fig. 1; column 1, line 67-column 2, line 20). Applicant's arguments are not convincing, as the very nature of wireless electronic communications requires the device itself to detect and receive the nearby wireless signals.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 20, 35-37 and 45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 20 recites performing "wireless communication with the portable wireless media access device, the wireless communication occurring over the wireless network" and "wherein at least one audio/video content stored in the memory is received over the wireless network", which is not supported in the specification as originally filed. While the device may receive audio/video through a subscribed wireless information service (page 4, lines 18-23 and page 5, lines 14-28) and *additionally* may form a local area network with compatible devices within range (page 4, lines 23-27), there is no support for the wireless communications with wireless portable devices occurring over the same network as the communication to receive audio/video. The device is disclosed as establishing a wireless communications session with a video server for receiving video content and *additionally* establishing a *local wireless network* with wireless devices.

Claim 35 recites "wherein the at least one audio/video content selection received over the wireless network is from a content server via one or more remote wireless devices", which is not supported in the specification as originally filed. While the device may receive audio/video through a subscribed wireless information service with a video server (page 4, lines 18-23 and page 5, lines 14-28) and ***additionally*** may form a local area network with compatible devices within range (page 4, lines 23-27), there is no support for receiving audio/video content from a content server *via* a remote wireless device.

Claim 36 recites “wherein the at least one audio/video content selection received over the wireless network is from a remote wireless device detected by the proximity sensor”, which is not supported in the specification as originally filed. While the device may receive audio/video through a subscribed wireless information service (page 4, lines 18-23 and page 5, lines 14-28) and **additionally** may form a local area network with compatible devices within range (page 4, lines 23-27), there is no support for receiving audio/video content from a remote wireless device.

Claim 37 recites “wherein the at least one audio/video content selection received over the wireless network is from a first remote wireless device that is communicatively connected to the local area network” and “the first remote wireless device having received the at least one audio/video content selection from a second remote wireless device”, which is not supported in the specification as originally filed. While the device may receive audio/video through a subscribed wireless information service (page 4, lines 18-23 and page 5, lines 14-28) and *additionally* may form a local area network with compatible devices within range (page 4, lines 23-27), there is no support for receiving audio/video content from a remote wireless device or wherein the remote wireless device is a first device connected to the content server. Further, there is no specific support for the “remote wireless device” to receive audio/video selections from a second remote wireless device as recited in the claim.



Claim 45 recites "a digital camera configured to record video content for transmission to a remote wireless device via the wireless network", which is not supported in the specification as originally filed. While the device may include a camera for recording video (page 10, lines 17-23) and transmitting the video to over the Internet to a home office, there is no support for transmitting the video to a remote wireless device.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 20 and 22-39 and 41-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tran (6,202,060) (of record) in view of Whiteside (5,835,861) (of record).

As to claim 20, while Tran discloses a portable wireless media access device (10, Fig. 1; column 4, lines 66-67 and column 5, lines 1-4), comprising:

a wireless interface (wireless transceiver, 31) configured to provide session-based communication connectivity (connected to complete a particular request; column 18, lines 53-65) over a wireless network (column 7, lines 40-52 and column 18, lines 53-65);

memory (Fig. 1; RAM, 22) configured to store audio/video content (column 18, lines 27-31 and column 19, lines 34-50); and

a user interface (keypad, 24) configured to receive instructions (column 18, lines 27-31, column 19, lines 34-50 and column 7, lines 28-52) related to access and playback of audio/video content stored in the memory (transmitted media to the TV for playback; column 14, lines 41-50), wherein at least one of the audio/video content selection stored in the memory is received over the wireless network (column 18, lines 27-31, column 19, lines 34-50 and column 7, lines 28-52).

While Tran discloses a remote wireless device capable of wireless communication with the portable wireless media access device, the wireless communication occurring over the wireless network (column 6, line 38-column 7, line 27), he fails to specifically disclose a proximity sensor configured to scan for and detect a remote wireless device capable of wireless communication with the portable wireless media access device.

In an analogous art, Whiteside discloses a portable wireless device (Fig. 1; cell phone, 10) which uses an infrared transmitter and receiver (column 1, lines 59-64) to scan and detect a portable wireless media access device capable of wireless communication with the portable wireless device (transmitter/receiver; column 1, line 58-column 2, line 18) to receive content (vendor telephone number; column 2, lines 13-22) for the typical benefit of providing a convenient way for a wireless user to easily acquire a vendor telephone number from a passing billboard (column 1, lines 14-24).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tran's system to include a proximity sensor configured to scan for and detect a remote wireless device capable of wireless communication with the portable wireless media access device, as taught by Whiteside, for the typical benefit for allowing a user of a portable wireless device to easily acquire advertiser information from billboards.

As to claim 22, Tran and Whiteside disclose wherein the at least one audio/video content selection is streamed over the wireless network (see Tran at column 7, line 3-27).

As to claim 23, Tran and Whiteside disclose wherein the at least one audio/video content selection is pulsed over the wireless network (digital; see Tran at column 7, line 3-27).

As to claim 24, Tran and Whiteside disclose wherein the memory includes a removable memory card (see Tran at Fig. 1; PCMCIA expandable storage).

As to claim 25, while Tran and Whiteside disclose wherein the proximity sensor scans for a remote wireless device capable of wireless communication with the portable wireless media access device in response to an instruction receive via the user

interface (see Whiteside at column 1, line 58-column 2, line 18), they fail to specifically disclose automatically continuously scanning for devices.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to automate a function of a computer device, such as scanning for local devices, for the typical benefit of providing a more convenient system by eliminating the need for the user action.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tran and Whiteside's system to include automatically continuously scanning for devices for the typical benefit of providing a more convenient system by eliminating the need for the user action.

As to claim 26, Tran and Whiteside disclose wherein the proximity sensor scans for a remote wireless device capable of wireless communication with the portable wireless media access device in response to an instruction receive via the user interface (see Whiteside at column 1, line 58-column 2, line 18).

As to claim 27, Tran and Whiteside disclose a transceiver configured to initiate a wireless communications session with a remote wireless device detected by the proximity sensor, the wireless communication occurring over the wireless network (see Whiteside at column 1, line 58-column 2, line 18).

As to claim 30, Tran and Whiteside disclose wherein the remote wireless device is a media display device configured to exchange interactive content with the portable media access device (billboard; see Whiteside at Fig. 1).

As to claim 31, Tran and Whiteside disclose wherein the media display device is a billboard (billboard; see Whiteside at Fig. 1).

As to claims 28, 29 and 32, while Tran and Whiteside disclose communicating with a remote wireless device, they fail to specifically disclose wherein the device is a cellular phone or kiosk.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to communicate with a kiosk and cellular phone for transmitting/receiving data, which are both readily available and distributed, for the typical benefit of taking advantage of widely-distributed existing devices for providing communication.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tran and Whiteside's system to include wherein the device is a cellular phone or kiosk for the typical benefit of taking advantage of widely-distributed existing devices for providing communication.

As to claim 33, Tran and Whiteside disclose wherein the at least one audio/video content selection received over the wireless network is from a content server (Internet server; column 19, lines 23-50).

As to claim 34, Tran and Whiteside disclose wherein the transceiver is further configured to establish a local area network of remote wireless devices detected by the proximity sensor (column 1, line 58-column 2, line 39).

As to claim 35, Tran and Whiteside disclose wherein the at least one audio/video content received over the wireless network is from a content server via an intermediate remote wireless device that is communicatively connected to the local area network (column 6, line 26-column 7, line 52).

As to claim 36, Tran and Whiteside disclose wherein the at least one audio/video content received over the wireless network is from a remote wireless device detected by the proximity sensor (column 6, line 26-column 7, line 27).

As to claim 37, Tran and Whiteside disclose wherein the at least one audio/video content received over the wireless network is from an intermediate remote wireless device that is communicatively connected to the local area network, the intermediate remote wireless device having received the at least one audio/video content selection

from another remote wireless device that is communicatively connected to the localized area network (column 6, line 26-column 7, line 52).

As to claim 38, Tran and Whiteside disclose wherein the at least one audio/video content received over the wireless network is segmented (packetized data; column 6, line 26-column 7, line 27).

As to claim 39, Tran and Whiteside disclose wherein a first segment of the segmented audio/video content selection is received from a first source and a second segment of the segmented audio/video content selection is received from a second source (see Tran at column 6, line 38-column 7, line 27).

As to claim 41, while Tran and Whiteside disclose a remote wireless device detected by the proximity sensor, they fail to specifically disclose wherein the device is identified by a serial number corresponding to that particular remote wireless device.

The examiner takes Official Notice that it was notoriously well known in the art at the time of invention by applicant to utilize unique serial numbers to identify particular devices, so as to provide security by identifying valid or "safe" devices and for allowing systems to readily identify a device and its corresponding use, thereby taking advantage of a well-known method for uniquely identifying electronic devices.

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tran and Whiteside's system to include wherein the

device is identified by a serial number corresponding to that particular remote wireless device for the typical benefit of taking advantage of a well-known method for uniquely identifying electronic devices.

As to claim 42, Tran and Whiteside disclose a serial port for exchanging information with an external device via a serial cable (see Tran at column 12, lines 7-36).

As to claim 43, Tran and Whiteside disclose a docking port for exchanging information with an external device via a docking station (proprietary docking port; see Tran at column 12, lines 7-36).

As to claim 44, Tran and Whiteside disclose at least one audio/video port for providing audio/video content to an external playback device, wherein playback is controlled by the user interface of the portable wireless media access device (see Tran at Fig. 3; column 14, line 41-column 15, line 10 and column 16, line 50-column 17, line 25).

As to claim 45, Tran and Whiteside disclose a digital camera configured to record video content for transmission to a remote wireless device via the wireless network (see Tran at column 6, line 38-column 7, line 27).



7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tran and Whiteside as applied to claim 20 above, and further in view of Sizer, II et al. (Sizer) (6,021,432) (of record).

As to claim 21, while Tran and Whiteside disclose at least one audio/video selection received over the wireless network, they fail to specifically disclose wherein the receipt of the audio/video includes receipt of data transmitted over a radio sideband carrier frequency.

In an analogous art, Tran and Whiteside disclose a portable device (104; column 5, lines 4-16) which will receive data transmitted over a radio sideband carrier frequency accompanying transmitted audio/video data (column 2, line 60-column 3, line 3) for the typical benefit of providing users with additional forms of relevant data along with broadcast transmissions (column 2, line 60-column 3, line 3 and column 4, lines 3-28).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Tran and Whiteside's system to include wherein the receipt of the audio/video includes receipt of data transmitted over a radio sideband carrier frequency, as taught by Sizer, for the typical benefit of providing users with additional forms of relevant data along with broadcast transmissions.

### ***Conclusion***

8. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the

required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is (571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James Sheleheda  
Examiner, Art Unit 2623

JS

/Chris Kelley/  
Supervisory Patent Examiner, Art Unit 2623